

## FIVE SUITS BROUGHT TO TEST INCOME TAX

All Reach the Supreme Court of the United States for Final Decision.

WASHINGTON, Dec. 25.—Five separate suits to test the constitutionality of the new income tax were brought in the federal courts throughout the country soon after the law became effective and all found their way to the Supreme Court of the United States soon after.

For nearly fifty years the fight for and against a federal income tax has been somewhere in the courts. The income tax imposed during the Civil war and the years immediately following were not attacked with the seriousness of later cases. It was not until the Cleveland administration placed an income tax in the Wilson tariff act that the fight became serious.

The contest over the validity of the tax in 1894 and 1895 before the supreme court was one of the most bitter ever fought out before that court. One of the lawyers, James C. Carter, warned the court against setting up its judgment to thwart the will of sixty million people. Joseph H. Choate, opposing, called upon the court to exercise its judicial power regardless of any popular or populist propaganda.

At first the court decided that the tax was unconstitutional as to rents from land because it was a direct tax not apportioned according to population, and was unconstitutional as to interest on municipal bonds. Only eight judges participated and they were evenly divided as to the validity of other features of the law. A rehearing was granted and Justice Jackson, then dying, took his place on the bench to listen to the last arguments in his lifetime. Justice Jackson voted to sustain the law. Justice Harlan created a sensation by announcing from the bench that another justice had changed his mind over night on the question, and the entire tax, both as to realty and as to income from personally was set aside on the ground that it was a direct tax and not apportioned according to population, as was required by the constitution of direct taxes.

An agitation for an amendment to the constitution then began. It came to nothing until President Taft recommended the enactment of an excise tax on corporations to be measured by their income and an amendment to the constitution to permit the levying of an income tax on all income. The amendment was submitted to the states at once and was proclaimed as the sixteenth amendment to the constitution on March 1, 1913.

It provided: "The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several states and without regard to any census or enumeration." Congress availed itself of the first opportunity to exercise the new power by incorporating into the tariff act which became effective October 3, 1913, the present income tax. Five suits, all challenging the validity of certain features of the tax were:

Frank R. Brushaber, stockholder of the Union Pacific Railroad Company, seeking in the New York federal court to enjoin the company from paying the tax.

John F. Dodge, and Horace E. Dodge, manufacturers of Detroit, Mich., in the Michigan federal courts, to enjoin the internal revenue collector from collecting the tax, largely on the ground that it discriminated against corporations in favor of individuals.

John R. Stanton, stockholder of the Baltimore Mining Company, in the Massachusetts federal courts, to enjoin the company and others from paying the tax, largely because of the five per cent annual deduction from income allowed mining companies for ore depletion.

Tyee Realty Company, in the New York federal court, to enjoin the collector of internal revenue.

Edwin Thorne, in the New York federal court, to enjoin the collector, largely on the ground that the additional or surtax imposed on incomes over \$20,000 was unconstitutional.

In each instance the lower court held the tax constitutional, and the case was brought to the supreme court on appeal. The cases were advanced for early hearing and were submitted to the court for decision on October 15, 1915, twenty years after the first great income tax decisions.

An excellent program was rendered by the Methodist Episcopal Sunday school in their church Saturday evening. Each number was one of merit. The pianists were Mrs. R. E. Peshak and Miss Doris Stout. Following is the program:

Song—"The Story of the Shepherds" Chorus.

Devotionals—Superintendent John Combs.

Vocal solo—"The Angel's Song"—Mrs. E. V. Osgery.

Exercise—Primary class, Madeline Donohue, Elliott Thrasher, Thayer Combs, Jennings Nichols, Franklin Bartlett, Junior Jones, Fred Martin and Walter Camp.

Song—"Proclaim the Tidings"—Chorus.

Exercise—"Message of the Bells"—Conice Combs, Vera Golden, Dorsie Hamrick and Lora Golden.

Vocal solo—"The Heavenly Stranger"—Miss Eva Graves, with violin obbligato by Miss Isadore Stout.

Exercise—"The Bell"—Primary class, Grace Gardner, Darwin Golden, Emily Worth, Nedra Bartlett, Mildred Orme, Lyle Jones and Darwin Golden.

Song—"The Angel's Song"—Mrs. Lee Stout, Misses Hattie Francis, Eva Graves, and Dale Stout and E. V. Osgery and Willis Dean.

Exercise—"The Pilgrims"—Honor Jones, Samuel Jones, Edwin Bartlett, William Moore, Earle Gawthrop, Paul Gawthrop and Raymond Moore.

Song—"The Heavens Declare"—Chorus.

Recitation—"Christmas Night"—Wilma Thompson.

Vocal solo—"Nazareth"—Mrs. A. P. Scarborough.

Floral drill—Misses Eva Graves, Hattie Francis, Dale Stout, Pauline Stout, Edna Hamrick, Eva Jones, Besse Golden, Stella Presse, Dorothy Donohue, Lois Moore, Nellie Fitzhugh and Katherine Jenkins.

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